HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Petition No.3465 of 2007

Between:

The Director of Treasury and Accounts,
A.P., Hyderabad and another

… Petitioners

And

P. Appalanarayana

… Respondent

:: ORDER::

Counsel for the Petitioners: Government Pleader for Services - II

April 30, 2007

Per G.S. Singhvi, CJ

This petition is directed against order dated 9-11-2005 vide which the Andhra Pradesh Administrative Tribunal (for short, 'the Tribunal') quashed the reversion of the respondent from the post of Junior Accountant and dismissed the application filed by the petitioners for vacating the interim order.

A perusal of the record shows that while he was working as Shroff in the office of District Treasury Officer, Visakhapatnam (petitioner No.2), a regular departmental enquiry was instituted against respondent – P. Appalanarayana on the charge that he made wrong payments of military pension to Sri Ram Singh and Sri S. Das. Simultaneously, a criminal case was registered against him. During the pendency of the departmental enquiry and criminal case, the respondent filed O.A.No.6330 of 2000 for issue of a direction to the non-applicants in that case to promote him to the post of Junior Accountant. The same was disposed of by the Tribunal on 7-11-2000 with the following directions:

> "The respondents are directed to consider the case of the applicant in terms of G.O.Ms.No.424, G.A. (Ser.C) Department, dated 25-3-1976 and any other subsequent G.Os. governing the subject and consider the case of the applicant and decide whether he is eligible and suitable and qualified for inclusion in the panel or not, and his case may be considered accordingly in the ensuing next DPC meeting."

In compliance of the direction given by the Tribunal, the competent authority considered the respondent's case and promoted him as Junior Accountant vide order dated 24-5-2001. After two years and seven months, petitioner No.2 issued notice dated 20-12-2003 proposing reversion of the respondent on the premise that his promotion during the pendency of the departmental proceedings was not in order. This was followed by order dated 2-1-2004 vide which

petitioner No.2 reverted the petitioner to the post of Shroff.

The respondent challenged his reversion in O.A.No.105 of 2004 by contending that he had been promoted to the post of Junior Accountant in accordance with the instructions issued by the government vide G.O.Ms.No.424, General Administration (Ser.C) Department, dated 25-5-1976 and G.O.Ms.No.257, General Administration (Ser.C) Department, dated 10-6-1999 despite the fact that the departmental enquiry and criminal case were pending against him and, therefore, there was no justification to revert him only on the ground of pendency of the enquiry. He further pleaded that no tangible progress had been made in the departmental enquiry and he cannot be made to suffer on that account.

In the counter filed on behalf of the petitioners it was pleaded that the applicant could not have been promoted during the pendency of the departmental enquiry and criminal case and the competent authority did not commit any illegality by reverting him to the post of Shroff.

The learned Judicial member of the Tribunal noted that the only direction given in O.A.No.6330 of 2000 was to consider the applicant's case in terms of G.O.Ms.No.424, dated 25-5-1976 and observed that once the concerned authority thought it proper to promote the respondent to the next higher post of Junior Accountant despite the pendency of the departmental enquiry and criminal case, there could be no justification to revert him on the pretext of pendency of the enquiry. The learned member referred to G.O.Ms.Nos.424, dated 25-5-1976 and G.O.Ms. No.257, dated 10-6-1999 and held that the pendency of the departmental proceedings cannot justify reversion of the applicant (the respondent herein) because there was no change in the status of enquiry after his promotion to the post of

Junior Accountant vide order dated 24-5-2001.

We have heard learned Government Pleader and scrutinised the records. In our opinion, the order under challenge does not suffer from any legal infirmity. It is neither the pleaded case of the petitioners nor the learned Government Pleader argued that the respondent had been promoted as Junior Accountant without taking note of the pendency of the departmental enquiry and criminal case. Rather, he fairly conceded that both the factors were in the knowledge of the competent authority when order promoting the respondent was issued. This being the position, we have no hesitation to record our approval of the view taken by the Tribunal that the respondent could not have been reverted on the ground of pendency of the disciplinary proceedings.

In the result, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, WPMP No.4415 of 2007 filed by the petitioners for interim relief is disposed of as infructuous.

G.S. SINGHVI, CJ

April 30, 2007

C.V. NAGARJUNA REDDY, J

svs